

AMENDED IN SENATE MARCH 17, 2003

SENATE BILL

No. 217

Introduced by Senator Sher

(Coauthor: Senator Alpert)

(Coauthors: Assembly Members Jackson and Nation)

February 13, 2003

An act to amend Section 4514.3 of, and to add Sections 4566 and 4582.1 to, the Public Resources Code, relating to forest resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 217, as amended, Sher. Forest resources.

The existing Z'berg-Nejedly Forest Practice Act of 1973, ~~with certain exceptions, exempts timber operations from specified waste discharge requirements if there is a certification from the federal Environmental Protection Agency that the provisions of the act constitute the best management practices for silviculture pursuant to the Federal Water Pollution Control Act. The Forest Practice Act prohibits~~ any person from conducting timber operations unless the person has submitted a timber harvesting plan prepared by a registered professional forester to the Department of Forestry and Fire Protection and received approval of that plan from the Director of Forestry and Fire Protection.

The Forest Practice Act requires the State Board of Forestry and Fire Protection to adopt district forest practice rules and regulations for each district to assure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, and wildlife, and water resources, including, but not limited to, streams, lakes, and estuaries. The Forest Practice Act also requires the board to adopt

minimum resource conservation standards for each forest district, including standards for even-aged management.

~~This bill would require that timber harvesting plans include measures to ensure the protection of a potable water supply if a timber operation is proposed upstream of a potable water supply that serves more than 200 connections and the timber operation could affect that potable water supply.~~

The

This bill would define “planning watershed” to mean the land base and associated watershed system that drains into a class I watercourse that is not less than 3,000 acres and does not exceed 10,000 acres in size. The bill would require the State Board of Forestry and Fire Protection to adopt regulations that provide standards and procedures for determining the maximum harvest limits for the timberlands of each ownership within a planning watershed.

The bill would authorize in each 10-year period in any planning watershed area, a maximum of 15% of a planning watershed area to be logged by either even-aged regeneration methods or those harvest methods that exceed 70% of the average basal area per acre. The bill would authorize more than 15% of the watershed to be harvested in a decade through even-aged regeneration methods if the director, pursuant to board rules, makes specified findings.

The bill would prohibit in any stand of ancient forests, as defined, the conduct of timber harvests using even-aged regeneration harvest methods or timber harvests in which more than 70% of the average conifer and hardwood basal area is removed in one operation, as specified, and would require timber harvests in any stand of ancient forest to comply with specified harvesting requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 4514.3 of the Public Resources Code is~~
- 2 ~~amended to read:~~
- 3 ~~4514.3. (a) Timber operations conducted pursuant to this~~
- 4 ~~chapter are exempt from the waste discharge requirements of~~
- 5 ~~Article 4 (commencing with Section 13260) of Chapter 4 of~~
- 6 ~~Division 7 of the Water Code if the federal Environmental~~
- 7 ~~Protection Agency certifies that the provisions of this chapter~~



1 constitute best management practices for silviculture pursuant to
2 Section 208 of the Federal Water Pollution Control Act.

3 (b) The exemption contained in subdivision (a) does not apply
4 when any of the following occur:

5 (1) The board requests issuance of waste discharge
6 requirements.

7 (2) The State Water Resources Control Board finds that the
8 board has failed to maintain a water quality regulatory process
9 consistent with the certification required under subdivision (a).

10 (3) After monitoring the water quality impacts from timber
11 operations conducted in compliance with this chapter, the State
12 Water Resources Control Board finds that compliance with best
13 management practices would result in less water quality protection
14 than required in water quality control plans approved pursuant to
15 Section 13245 of the Water Code.

16 (e) If a timber operation is proposed upstream of a potable
17 water supply that serves more than 200 connections, and the timber
18 operation could affect that potable water supply, the timber
19 harvesting plan shall contain measures to ensure the protection of
20 that potable water supply, including, but not limited to, all of the
21 following:

22 (1) Establishment of water quality monitoring stations
23 necessary to assess the water quality effects of the timber
24 operation, as designated by the appropriate California regional
25 water quality control board.

26 (2) Identification of the appropriate water quality parameters to
27 be tested for, as designated by the appropriate California regional
28 water quality control board.

29 (3) The frequency with which monitoring reports shall be
30 submitted to the affected water supplier, county health officer, and
31 the California regional water quality control board, as designated
32 by the appropriate California regional water quality control board.

33 SEC. 2.—

34 SECTION 1. Section 4566 is added to the Public Resources
35 Code, to read:

36 4566. (a) On or before ____, ____, the board shall adopt
37 regulations that provide standards and procedures for determining
38 the maximum harvest limits for the timberlands of each ownership
39 within a planning watershed. These regulations shall require the
40 department to establish boundaries for all planning watersheds

1 consistent with the procedures established by the board and in
2 consultation with the Department of Fish and Game and the
3 appropriate California regional water quality control board.

4 (b) The procedures established by the board for determining
5 maximum harvest limits within a planning watershed shall include
6 a planning threshold harvest level. The planning threshold shall
7 identify a watershed harvest level for which existing standard best
8 management practices provide feasible protection for resources
9 placed at risk by timber harvesting.

10 (c) In each 10-year period in any planning watershed area, a
11 maximum of 15 percent of the planning watershed area may be
12 logged by either even-aged regeneration methods or those harvest
13 methods that exceed 70 percent of the average basal area per acre.
14 More than 15 percent of the watershed may be harvested in a
15 decade through even-aged regeneration methods, if the director,
16 pursuant to board rules, makes all of the following findings:

17 (1) Even-aged management is required for regeneration of the
18 species harvested.

19 (2) There will be appropriate spatial distribution of even-aged
20 harvesting among subwatersheds to avoid overconcentration of
21 tree species.

22 (3) Clear and convincing evidence exists that the higher harvest
23 level is appropriate based on past harvest levels and the condition
24 of the watershed.

25 (4) Appropriate mitigation measures recommended by the
26 Department of Fish and Game and the appropriate California
27 regional water quality control board will be carried out to assure
28 that the harvest level will not have a significant cumulative effect
29 on the environment.

30 (5) No buffer area contiguous to a previous even-aged
31 regeneration harvest unit will be harvested under an even-aged
32 regeneration method until the dominant and codominant trees in
33 the previous even-aged regeneration unit are at least 10 years of
34 age.

35 (d) For purposes of this section, “planning watershed” means
36 the land base and associated watershed system that drains into a
37 class I watercourse that is not less than 3,000 acres and does not
38 exceed 10,000 acres in size. Where a watershed exceeds 10,000
39 acres, the department shall subdivide the watershed into smaller
40 planning watersheds less than 10,000 acres but greater than 3,000

1 acres in size. Where a watershed is less than 3,000 acres in size, the
2 department shall combine one or more adjacent tributary
3 watersheds to create a planning watershed greater than 3,000 acres
4 but less than 10,000 acres in size, that is drained by a single
5 common stream. Watersheds that drain directly into the Pacific
6 Ocean may be less than 3,000 acres. Where 10,000 acres is not a
7 logical watershed planning unit, such as on some Eastside Sierra
8 pine types, the board may provide for the use of larger watersheds,
9 but the size shall be the smallest that is practical and shall
10 encompass contiguous acreage.

11 ~~SEC. 3.—~~

12 *SEC. 2.* Section 4582.1 is added to the Public Resources
13 Code, to read:

14 4582.1. (a) No timber harvest using even-aged regeneration
15 harvest methods or in which more than 70 percent of the average
16 conifer and hardwood basal area is removed in one operation, is
17 permitted on any stand of ancient forest.

18 (b) Harvesting activities on lands subject to this section shall
19 comply with all of the following:

20 (1) All timber harvests shall be conducted in a manner that
21 ensures that the stand continues to retain a multistoried canopy and
22 to produce habitat characteristics essential to old growth related
23 wildlife species. Following completion of timber harvests within
24 any ancient forest, there shall be retained a multistory canopy, of
25 at least six trees per acre, that are at or above the age of stand
26 culmination of mean annual increment, but not less than 100 years
27 on the highest site lands and not less than one-half of the volume
28 of downed logs, nonmerchantable live trees, and hard and soft
29 snags. When roads are to be constructed through an ancient forest,
30 trees harvested shall be consistent with the tree removal limits set
31 forth in paragraphs (2) and (3).

32 (2) Within unentered ancient forests, timber harvests may not
33 occur more frequently than once every 25 years. All harvests on
34 unentered ancient forests are limited to a maximum removal of 50
35 percent of the trees 10 to 20 inches, inclusive, 21 to 35 inches,
36 inclusive, and 36 inches and larger in diameter at breast height.
37 There shall also be minimum retention or recruitment of structural
38 features and their spatial arrangement, including hard and soft
39 snags, green culls, downed logs, and coarse woody debris.

1 (3) The first proposed harvest on an entered ancient forest is
2 limited to a maximum removal of 50 percent of the trees 10 to 20
3 inches, inclusive, 21 to 35 inches, inclusive, and 36 inches and
4 larger in diameter at breast height. There shall also be a minimum
5 retention or recruitment of structural features, including hard and
6 soft snags, green culls, downed logs, and coarse woody debris.
7 Upon any subsequent entry of an entered ancient forest, timber
8 operations may only be conducted pursuant to the selection
9 method, as defined in Sections 913.2, 933.2, and 953.2 of Title 14
10 of the California Code of Regulations, as those sections read on
11 January 1, ~~1992~~ 2003.

12 (4) The Department of Fish and Game shall conduct an onsite
13 inspection of any timber harvesting plan proposing a timber
14 operation within an ancient forest prior to the director determining
15 whether the plan conforms with the rules and regulations of the
16 board or with this chapter.

17 (c) Subdivision (a) and paragraphs (1) and (3) of subdivision
18 (b) do not apply to the following:

19 (1) Authorized emergency sanitation cutting.

20 (2) Authorized salvage of dead, dying, or deteriorated trees
21 resulting from fire, wind, insects, disease, or flood.

22 (3) Land that has been approved for conversion to uses other
23 than growing timber pursuant to Article 9 (commencing with
24 Section 4621).

25 (4) Firebreaks, fuel breaks, and rights-of-way.

26 (d) As used in this section:

27 (1) “Ancient forest” means a forested area, with a multistoried
28 canopy, with at least six live trees per acre that are at least 200 years
29 of age. An ancient forest may be either of the following:

30 (A) An unentered forested area covering 40 or more acres with
31 no evidence of previous roads or timber harvesting and no record
32 of previous harvest activities.

33 (B) An entered forested area covering 40 or more acres with
34 previous entry for logging that provides essential habitat elements
35 for ancient forest-related wildlife species.

36 (2) “Culmination of mean annual increment” means the age at
37 which the total volume of a timber stand, divided by its age,
38 reaches the maximum volume.

39 (3) “Even-aged regeneration” means clearcutting and the seed
40 step of the shelterwood and seed tree regeneration silvicultural

1 methods, as defined in Sections 913.1, 933.1, and 953.1 of Title
2 14 of the California Code of Regulations, as those sections read on
3 January 1, ~~1992~~ 2003.

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